

identity, law enforcement, or security investigations or examinations subject to the provisions of this section. If new information is presented, the immigration judge may hold a further hearing if necessary to consider any legal or factual issues, including issues relating to credibility, if relevant. The immigration judge shall then enter an order granting or denying the immigration relief sought.

(i) *Procedures when immigration relief granted.* At the time that the immigration judge or the Board grants any relief under this section that would entitle the respondent to a new document evidencing such relief, the decision granting such relief shall include advice that the respondent will need to contact an appropriate office of DHS. Information concerning DHS locations and local procedures for document preparation shall be routinely provided to EOIR and updated by DHS. Upon respondent's presentation of a final order from the immigration judge or the Board granting such relief and submission of any biometric and other information necessary, DHS shall prepare such documents in keeping with section 264 of the Act and regulations thereunder and other relevant law.

(j) *Voluntary departure.* The procedures of this section do not apply to the granting of voluntary departure prior to the conclusion of proceedings pursuant to 8 CFR 1240.26(b) or at the conclusion of proceedings pursuant to 8 CFR 1240.26(c). If DHS seeks a continuance in order to complete pending identity, law enforcement, or security investigations or examinations, the immigration judge may grant additional time in the exercise of discretion, and the 30-day period for the immigration judge to grant voluntary departure, as provided in §1240.26(b)(1)(ii), shall be extended accordingly.

(k) *Custody hearings.* The foregoing provisions of this section do not apply to proceedings seeking the redetermination of conditions of custody of an alien during the pendency of immigration proceedings under section 236 of the Act. In scheduling an initial custody redetermination hearing, the immigration judge shall, to the extent practicable consistent with the expedited nature of such cases, take ac-

count of the brief initial period of time needed for DHS to conduct the automated portions of its identity, law enforcement, or security investigations or examinations with respect to aliens detained in connection with immigration proceedings. If at the time of the custody hearing DHS seeks a brief continuance in an appropriate case based on unresolved identity, law enforcement, or security investigations or examinations, the immigration judge in the exercise of discretion may grant one or more continuances for a limited period of time which is reasonable under the circumstances.

[70 FR 4753, Jan. 31, 2005]

Subpart D [Reserved]

Subpart E—List of Free Legal Services Providers

SOURCE: 62 FR 9073, Feb. 28, 1997, unless otherwise noted.

§ 1003.61 List.

(a) The Chief Immigration Judge shall maintain a current list of organizations and attorneys qualified under this subpart which provide free legal services. This list, which shall be updated not less than quarterly, shall be provided to aliens in immigration proceedings. The Chief Immigration Judge may designate an employee or employees to carry out his or her responsibilities under this subpart. Organizations and attorneys may be included on the list of free legal services providers if they qualify under one of the following categories:

(1) Organizations recognized under §1292.2 of this chapter that meet the qualifications set forth in §1003.62(a) and whose representatives, if any, are authorized to practice before the Board and Immigration Courts;

(2) Organizations not recognized under §1292.2 of this chapter that meet the qualifications set forth in §1003.62(b);

(3) Bar associations that meet the qualifications set forth in §1003.62(c); and

(4) Attorneys, as defined in §1001.1(f) of this chapter, who meet the qualifications set forth in §1003.62(d).

(b) The listing of an organization qualified under this subpart is not equivalent to recognition under § 292.2 of this chapter.

§ 1003.62 Qualifications.

(a) *Organizations recognized under § 1292.2.* An organization that is recognized under § 1292.2 of this chapter that seeks to have its name appear on the list of free legal services providers maintained by the Chief Immigration Judge must have on its staff:

(1) An attorney, as defined in § 1001.1(f) of this chapter; or

(2) At least one accredited representative, as defined in § 1292.1(a)(4) of this chapter, who is authorized to practice before the Board and Immigration Courts.

(b) *Organizations not recognized under § 1292.2.* An organization that is not recognized under § 1292.2 of this chapter that seeks to have its name appear on the list of free legal services providers maintained by the Chief Immigration Judge must declare that:

(1) It is established in the United States;

(2) It provides free legal services to indigent aliens; and

(3) It has on its staff, or retains at no expense to the alien, an attorney, as defined in § 1001.1(f) of this chapter, who is available to render such free legal services by representation in immigration proceedings.

(c) *Bar associations.* A bar association that provides a referral service of attorneys who render *pro bono* assistance to aliens in immigration proceedings may apply to have its name appear on the list of free legal services providers maintained by the Chief Immigration Judge. Any other organization that provides such a referral service may also apply to have its name appear on the list of free legal services providers, and may, in the sole discretion of the Chief Immigration Judge, be included on the list.

(d) *Attorneys.* An attorney, as defined in § 1001.1(f) of this chapter, who seeks to have his or her name appear on the list of free legal services providers maintained by the Chief Immigration Judge must declare in his or her application that he or she provides free legal services to indigent aliens and

that he or she is willing to represent indigent aliens in immigration proceedings *pro bono*. An attorney under this section may not receive any direct or indirect remuneration from indigent aliens for representation in immigration proceedings, although the attorney may be regularly compensated by the firm or organization with which he or she is associated.

§ 1003.63 Applications.

(a) *Generally.* In order to qualify to appear on the list of free legal services providers maintained by the Chief Immigration Judge under this subpart, an organization or attorney must file an application requesting to be placed on the list. This application must be filed with the Office of the Chief Immigration Judge, along with proof of service on the Court Administrator of the Immigration Court having jurisdiction over each locality where the organization or attorney provides free legal services. Each submission must be identified by the notation "Application for Free Legal Services Providers List" on the envelope, and must also indicate if the organization or attorney is willing to represent indigent aliens in asylum proceedings.

(b) *Organizations recognized under § 292.2.* An organization that is recognized under § 292.2 of this chapter must submit a declaration signed by an authorized officer of the organization which states that the organization complies with all of the qualifications set forth in § 1003.62(a).

(c) *Organizations not recognized under § 292.2.* An organization that is not recognized under § 292.2 of this chapter must submit a declaration signed by an authorized officer of the organization which states that the organization complies with all of the qualifications set forth in § 1003.62(b).

(d) *Attorneys.* An attorney must:

(1) Submit a declaration that states that:

(i) He or she provides free legal services to indigent aliens;

(ii) He or she is willing to represent indigent aliens in immigration proceedings *pro bono*; and

(iii) He or she is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting him or her in the practice of law; and

(2) Include the attorney's bar number, if any, from each bar of the highest court of the state, possession, territory, or commonwealth in which he or she is admitted to practice law.

(e) *Changes in addresses or status.* Organizations and attorneys referred to in this subpart are under a continuing obligation to notify the Chief Immigration Judge, in writing, within ten business days, of any change of address, telephone number, or qualifying or professional status. Failure to notify the Chief Immigration Judge of any such change may result in the name of the organization or attorney being removed from the list.

§ 1003.64 Approval and denial of applications.

The Court Administrator of the Immigration Court having jurisdiction over each locality where an organization or attorney provides free legal services shall forward a recommendation for approval or denial of each application submitted by the organization or attorney, and the reasons therefor, to the Chief Immigration Judge. The Chief Immigration Judge shall have the authority to approve or deny an application submitted by an organization or an attorney pursuant to § 1003.63. If an application is denied, the organization or attorney shall be notified of the decision in writing, at the organization's or attorney's last known address, and shall be given a written explanation of the grounds for such denial. A denial must be based on the failure of the organization or attorney to meet the qualifications and/or to comply with the procedures set forth in this subpart. The organization or attorney shall be advised of its, his or her right to appeal this decision to the Board of Immigration Appeals in accordance with § 1003.1(b) and § 1103.3(a)(1)(ii) of this chapter.

§ 1003.65 Removal of an organization or attorney from list.

(a) *Involuntary removal.* If the Chief Immigration Judge believes that an or-

ganization or attorney included on the list of free legal services providers no longer meets the qualifications set forth in this subpart, he or she shall promptly notify the organization or attorney in writing, at the organization's or attorney's last known address, of his or her intention to remove the name of the organization or attorney from the list. The organization or attorney may submit an answer within 30 days from the date the notice is served. The organization or attorney must establish by clear, unequivocal, and convincing evidence that the organization's or attorney's name should not be removed from the list. If, after consideration of any answer submitted by the organization or attorney, the Chief Immigration Judge determines that the organization or attorney no longer meets the qualifications set forth in this subpart, the Chief Immigration Judge shall promptly remove the name of the organization or attorney from the list of free legal service providers, the removal of which will be reflected in the next quarterly update, and shall notify the organization or attorney of such removal in writing, at the organization's or attorney's last known address. Organizations and attorneys shall be advised of their right to appeal this decision to the Board of Immigration Appeals in accordance with § 1003.1(b) and § 1103.3(a)(1)(ii) of this chapter.

(b) *Voluntary removal.* Any organization or attorney qualified under this subpart may, at any time, submit a written request to have its, his or her name removed from the list of free legal service providers. Such a request shall be honored, and the name of the organization or attorney shall promptly be removed from the list, the removal of which will be reflected in the next quarterly update.

Subpart F [Reserved]

Subpart G—Professional Conduct for Practitioners—Rules and Procedures

SOURCE: 65 FR 39526, June 27, 2000, unless otherwise noted.